



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

inaptness of this characterization is shown by the author's statement later on: "Forebodings in this respect proved groundless" (page 284). Mr. Olney's attitude in regard to the Venezuela arbitration is dealt with in such language as the following: "Secretary Olney's pronouncements were startling," "audacious and arrogant dogmas" "Olney's note was startlingly new * * * somewhat coarse and repulsive" (pp. 306, 7 and 8).

These characterizations in unfavorable terms of national policy and of statesmen held in high esteem would be quite allowable in an author who was writing a treatise on his own account, but it is given to be understood that in the present case he was engaged for a specific work by organizations which desired to have produced a volume which would promote international good feeling and not offend national sensibilities or awaken individual resentment. President Butler describes the engagement as a "delicate task," but these citations seem to show a forgetfulness of the duty assumed. Nevertheless they are but as slight defects in a work which will take a high place in the historical and philosophical study of this important era in the world's affairs.

JOHN W. FOSTER.

The Essentials of International Law. By Amos S. Hershey, Ph. D. New York: Macmillan Company, 1912. pp. xlviii, 558. \$3.00 net.

The above is a work of some 532 pages beside a Table of Cases of 8 pages, a "List of Authorities" of 29 pages and a careful index of 26 pages.

The purpose of Prof. Hershey is, as he tells us, "to furnish the teacher and student with an *up-to-date* text adapted to the needs of the classroom," and also to present the specialist as well as the general public with a "scientific treatise on the subject." The scheme of arrangement is to present in a clear, consecutive and concise text "the Essentials of International Public Law," leaving "minor and controversial details" to extended footnotes and closing each chapter with an elaborate bibliography of the topic treated. "Those parts of international law which have been officially codified, *viz.*, the Hague Conventions and the Declaration of the London Naval Conference of 1909" have been "incorporated into the body of the text." The historical chapters and those on "The Succession of States" and "Aërial Space" had already appeared in this JOURNAL. The work is based especially upon "modern or contemporary as distinguished from the older sources and author-

ities" and free use has been made of the material found in late monographs and periodicals.

Professor Hershey is a graduate of Harvard in letters and in law, took his doctorate at Heidelberg and was for some time a student in Paris. The work we are reviewing shows in every page, as might be expected, the most thorough scholarship and the widest research. The author's equipment is admirable and his care and industry obvious. Perhaps the most striking and interesting chapters are those devoted to a general view of the history and development of international law and the contributions of different periods and nations thereto. The succeeding chapters show sometimes the limits of space and the text seems somewhat elemental, but it is always enriched with abundant and discriminating notes and always with a full bibliography, including not only English and American publications, but those of all nations and in all tongues, not omitting the valuable contributions of South American scholars.

The author very successfully controverts the theories of Bentham and Austin that international law is not "a branch of true Law" showing that this theory is today "rejected by an overwhelming weight of authority except possibly in England and the United States," and that "It is now generally agreed that the Austinian view of law is formal, narrow, arbitrary, unhistorical and unphilological," a conclusion most gratifying to this reviewer, who has found Austin as profitless as tedious. It may not be improper to note that in the history of international law among the "authorities contributed by the United States," apart from himself, Dr. Hershey enumerates six of the editors of this JOURNAL.

He recognizes man as "a fighting animal almost constantly engaged in a desperate struggle for existence with his environment and frequently at war with his fellows," but says he is "also a social and political being who has long since discovered that mutual co-operation and organization are at least as essential to human well-being and progress as are struggle, rivalry and competition."

He quotes the proverbial saying of Plutarch "*Woe to the conquered*," as showing the law of the ancient world, and traces the great amelioration of international relations and of the laws of men which have obtained especially since the writings of Grotius. He was not called on to record the terrible reversion to older customs, carried out with the ghastly efficiency of modern contrivance, which the present wars have witnessed and which make Plutarch's proverb live again.

However, he points out that the massacre of 4000 prisoners by Napoleon at Jaffa proved as impolitic as it was inhuman, since it stimulated the defenders of Acre to so desperate a resistance that it was successful and defeated the purpose of the invading force and compelled their retreat across the desert to Egypt (p. 374).

The lesson of this incident should not now be forgotten.

Perhaps the fate of Melos conquered by Athens shows that Greek culture was as pitiless as that of some modern states of intellectual reputation. Professor Hershey says (p. 37):

"The whole male population of Melos was slain and the women and children sold into slavery. The Dorian people of Melos had committed the offense of trying to remain neutral during the Peloponnesian War. The Athenians frankly repudiated all considerations of justice and maintained that gods and men alike "always maintain dominion, whenever they are stronger."

It is very interesting to see that the period of the French and American Revolutions, as in many other matters, "marks a new epoch in the history of international relations."

"The Abbé de Saint-Pierre presented his 'Project of Perpetual Peace' and Montesquieu taught that the law of nations is naturally based upon the principle that the various nations should do each other as much good as possible in times of peace; in war as little harm as possible without injuring their true interests," and presently under the lead of Washington our own country asserted and shortly established neutral right upon the high sea as never known before, greatly enlarging the freedom and safety of that great source of well-being and of civilization, international commerce. Mr. Hershey shows that this country has remained the principal champion of neutral rights ever since.

It is curious in this work, as we contemplate the present German Empire, to learn that the Peace of Westphalia (1644-48) practically recognized the independence and legal equality of 355 sovereignties of Germany and it makes us realize the wonderful unifying work of Bismarck. Considering the disregard of even the most solemnly and recently affirmed rules in the present European war, it is interesting to learn that at Aix la Chapelle (1818) "the Powers declared for the first time that it was their unalterable determination never to swerve from the strictest observance of the Law of Nations, either in their relations with one another or with other states," and to see that they held a series of congresses during the next four years authorizing interventions

in Naples, Piedmont and Spain; that when the extension of this system to Spanish America was proposed the President of the United States, instigated by Great Britain, always hostile to the practice, promulgated in 1823 the Monroe Doctrine, which is still an abiding force in the international policies of this half of the globe.

Everywhere Dr. Hershey sustains himself by wide and varied research and citation, from which he is able to generalize with vigor and convincing force. Where there are conflicting views, he states both fairly and indicates with decision the prevailing or preferable doctrine: for instance, as to the elusive jurisdiction over aerial space (p. 233) where he approves Westlake's formula "The state has a right of sovereignty over aerial space above its soil, saving a right of inoffensive passage (usage) for balloons and other aerial machines and for communication by wireless telegraphy." This reviewer would suggest that it is now obvious that this right so saved must be further restricted to prevent espionage, especially as to fortified places, and interference with government wireless messages. The recent arrest and detention of Japanese airmen giving exhibitions near fortifications in our Pacific Islands, illustrates the necessity even in time of peace. It will be most improvident to adopt a rule which will expose the plan and arrangement of every fortification to aliens and hired spies in times of peace, and this difficulty is somewhat recognized on p. 234.

The comments on Hall's "otherwise admirable work" for "its anti-American bias upon several occasions" is wholly warranted, and that almost malignant bias is the one great defect in Hall's otherwise most able and satisfactory treatise. The conflict of the American and English cases as to interest on debts where debtor and creditor are divided by the line of war is merely indicated. The English cases, it is submitted, are slight, ancient, and unsatisfactory and the subject much oftener, more recently, more fully and conclusively decided by the American courts against interest running in such cases (see article by this reviewer [*Law Quarterly and Review*, London]).

Dr. Hershey (p. 496) cites an article by this reviewer on "Continuous Voyage" as in the *Harvard Law Review* of 1901. This is a slight error. The article was read at the Guildhall, London, August 2, 1910, and published in the *Harvard Law Review*, for 1911.

A slight error also seems to have intervened in the text (p. 164), where the riots at New Orleans and Key West in 1851, it is said, "resulted in the summary execution of a number of American filibusters in Cuba,"

whereas it is well known that the execution of the filibusters preceded and caused the anti-Spanish riots. (See Snow's *Cases*, p. 181; 2 Whart. *Dig.* 600.) It is stated (p. 200), "Great Britain also asserts jurisdiction over foreign as well as native fishermen in the Moray Firth, *Mortensen v. Peters*, 14 Scots Law Times R., Pts. 13 and 14." This great claim over 2000 square miles of ocean was fully maintained in the case cited, but this reviewer has the written statement of the then British Ambassador, Mr. Bryce, that Great Britain has not adhered to this claim.

The modern character of the book and the inclusion of the Hague Conventions and the Declaration of London, with extended notes and discussion, add, of course, much to its usefulness and authority. The errors which this writer has thought that he observed were of the slightest character and do not impair the value of a most thoughtful, solid, scholarly work, well arranged, clearly expressed, in which the general doctrines of international law are comprehensively and concisely stated, and sustained by ample and apposite citation, in which conflicting doctrines are compared and the reader guided to the better view, and in which a very noble and useful science is brought (if he allows this writer to say it), in the rather flippant expression which Dr. Hershey uses in his preface, "*up to date*."

CHAS. NOBLE GREGORY.

Private International Law. By John Alderson Foote. London: Stevens & Haynes. 1914. pp. xlv, 595.

This, the fourth edition of this well known work, has been prepared for publication by Coleman Phillipson, of the Inner Temple, Barrister-at-Law, himself an important contributor to the science of international law.

Many improvements are noted in this edition; among them, the insertion of the later cases, and also of the date of each decision in the citation of it. Another important change is the omission of the partial summaries that in previous editions had been subjoined to the different headings.

Even a cursory examination of the book would suffice to show that it is of inestimable value to the British practitioner, for from beginning to end it deals in the most thorough and practical way with the decisions of the English, Scotch and Irish courts.

But there seems to have been little or no attempt to make as close a study of the colonial or American cases, or even to cite them. It is not